

**REMARKS**

Claims 10, 11 and 15 are canceled without prejudice, and claims 8, 9, 12 to 14 and 16 to 19 are pending.

In view of the following, it is respectfully submitted that all of the presently pending claims are allowable, and reconsideration is respectfully requested.

Applicants thank the Examiner for indicating that claim 15 contains allowable subject matter. While the objections may not be agreed with, to facilitate matters, claim 8 has been rewritten so as to obviate the objections. In particular, claim 15 has been included in claim 8, and claims 10 and 15 have been canceled without prejudice (since their features are in claim 8, as presented). Accordingly, claims 8, 9, 12 to 14 and 16 to 19 are allowable. Approval and entry are respectfully requested, as is withdrawal of the objections.

Claim 11 was rejected under 35 U.S.C. § 112, first paragraph, as to the enablement requirement.

While the enablement rejection may not be agreed with, to facilitate matters, claim 11 has been canceled without prejudice. It is therefore respectfully requested that the rejection of claim 11 be withdrawn.

Claim 18 was rejected under 35 U.S.C. § 112, fourth paragraph, as not further limiting claim 8.

While the rejection may not be agreed with, to facilitate matters, claim 18 has been rewritten so as to obviate the rejection. Approval and entry are respectfully requested, as is withdrawal of the rejection of claim 11.

Claims 8 to 14 and 16 to 19 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent Application Publication No. 2003/0053466 ("Bizet").

As regards the anticipation rejections of the claim, to reject a claim under 35 U.S.C. § 102, the Office must demonstrate that each and every claim feature is identically described or contained in a single prior art reference. (*See Scripps Clinic & Research Foundation v. Genentech, Inc.*, 18 U.S.P.Q.2d 1001, 1010 (Fed. Cir. 1991)). As explained herein, it is respectfully submitted that the prior Office Action does not meet this standard,

for example, as to all of the features of the claims. Still further, not only must each of the claim features be identically described, an anticipatory reference must also enable a person having ordinary skill in the art to practice the claimed subject matter. (See *Akzo, N.V. v. U.S.I.T.C.*, 1 U.S.P.Q.2d 1241, 1245 (Fed. Cir. 1986)).

As further regards the anticipation rejections, to the extent that the Office Action may be relying on the inherency doctrine, it is respectfully submitted that to rely on inherency, the Examiner must provide a “basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristics *necessarily* flows from the teachings of the applied art.” (See M.P.E.P. § 2112; emphasis in original; and see *Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Int’f. 1990)). Thus, the M.P.E.P. and the case law make clear that simply because a certain result or characteristic may occur in the prior art does not establish the inherency of that result or characteristic.

While the rejections may not be agreed with, to facilitate matters, claim 8 has been rewritten so as to obviate the rejections. In particular, claim 15 has been included in claim 8, and claims 10 and 15 have been canceled without prejudice (since their features are in claim 8, as presented). Accordingly, claims 8, 9, 12 to 14 and 16 to 19 are allowable. Approval and entry are respectfully requested, as is withdrawal of the rejections.

Accordingly, claims 8, 9, 12 to 14 and 16 to 19 are allowable.

**CONCLUSION**

In view of the above, it is respectfully submitted that all of the presently pending claims are allowable. It is therefore respectfully requested that the rejections and objections be withdrawn, since they have been obviated. Since all issues raised have been addressed, an early and favorable action on the merits is respectfully requested.

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Respectfully Submitted,

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